

August 18, 2022

VIA ECF

Hon. Katherine Polk Failla
U.S. District Court for the
Southern District of New York
40 Foley Square Room 2103
New York, New York 10007

MEMO ENDORSED

Re: *Consolidated Edison Company of New York, Inc. v. Liberty Mutual Insurance Company*
Case No. 1:22 -cv- 05504 KPF

Honorable Judge Failla:

This office represents the plaintiff Consolidated Edison Company of New York, Inc. with respect to the above captioned matter. The purpose of the letter is to request an adjournment of the Initial Pre-Trial Conference, presently scheduled for August 26, 2022. This is the first request for an adjournment and the attorneys for the defendant have consented to the adjournment.


The matter is one for breach of an insurance contract in which the plaintiff is alleging that the defendant refused to provide insurance coverage to the plaintiff as an additional insured for the underlying personal injury action. The named insured of the defendant was a contractor which had contracted to perform work in the area where the accident giving rise to the underlying personal injury action had occurred. Pursuant to the contract, the plaintiff was to be named an additional insured under the contract. The plaintiff contends that it qualified as an additional insured under the policy of insurance issued by the defendant and the denial of coverage was a breach of the insurance contract. The underlying action was eventually settled.

The defendant has answered the amended complaint and has commenced a third-party action against P. Pohorence & Son Landscaping, Inc. (Pohorence), another contractor of the plaintiff working in the area, and its insurer, NGM Insurance Company (NGM) claiming that the plaintiff was also an additional insured under the policy issued by NGM to Pohorence. Among the claims in the third-party complaint is that the defendant is entitled to payment from the third-party defendants in the event it is found that the plaintiff was an additional insured under the policy issued by the defendant. The third-party complaint has been filed and a summons has been requested.

In light of the relationship of the issues contained in the main action and third-party action, it is requested that the Initial Pre-Trial Conference be adjourned until the third-party defendants have had a chance to appear in the action. An Initial Pre-Trial conference with all parties present will, it is respectfully submitted, help to foster a more efficient completion of pre-trial discovery and an eventual resolution of the matter.

Thank you for your attention to the matter.

Respectfully submitted,


Karl Zamurs

Application GRANTED. The initial pretrial conference scheduled to take place on August 26, 2022, is hereby **ADJOURNED** *sine die* to give the third-party Defendants time to appear. The Court will re-schedule the initial pre-trial conference once the third-party Defendants appear.

Dated: August 18, 2022
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE